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MEMORANDUM TO: James Jochum
Assistant Secretary
for Import Administration

FROM: Barbara E. Tillman
Acting Deputy Assistant Secretary
for Import Administration

SUBJECT: Issues and Decision Memorandum for the Final Results of the
Antidumping Duty Administrative Review on Folding Metal
Tables and Chairs from the People's Republic of China –
December 3, 2001, through May 31, 2003

Summary

We have analyzed the comments of the interested parties in the administrative review of the antidumping duty order covering folding metal tables and chairs from the People's Republic of China ("PRC"). We recommend that you approve the positions we have developed in the "Discussion of the Issues" section of this memorandum. In addition, we have made changes in the margin calculations as discussed in the "Margin Calculations" section of this memorandum. Below is the complete list of the issues in this review for which we received comments from parties:

- Issue 1: Use of Actual Market Economy Prices Paid to Hong Kong Suppliers To Value Shichang's Cold-Rolled Steel Input
- Issue 2: Correcting Certain Errors in the Draft Instructions of Cash Deposit Rates and Liquidation to U.S. Customs and Border Protection

Background

On July 6, 2004, the Department published in the Federal Register the preliminary results of the first antidumping duty administrative review of the antidumping duty order on folding metal tables and chairs from the People's Republic of China ("PRC") (see Folding Metal Tables and Chairs From the People's Republic of China: Preliminary Results of First Antidumping Duty Administrative Review, 69 FR 40602 (July 6, 2004) ("Preliminary Results")). The products

covered by this order are assembled and unassembled folding tables and folding chairs made primarily or exclusively from steel or other metal. The period of review (“POR”) is December 3, 2001, through May 31, 2003. For a detailed discussion of the events which have occurred in this review since the Preliminary Results, see the “Background” section of the Federal Register notice. We provided parties with an opportunity to comment on our Preliminary Results.

Margin Calculations

We have calculated the margin for Dongguan Shichang Metals Factory Co., Ltd. (“Shichang”) using the same methodology stated in the preliminary results, except as follows:

1. Based on the decision made by the Department in Notice of Amended Final Determination of Sales at Less Than Fair Value: Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof from the People’s Republic of China, 69 FR 47868 (August 6, 2004) (“Ironing Tables”), in which the Department used the same data as in this administrative review to derive surrogate financial ratios, we have made changes to the surrogate financial ratios as discussed below. First, in the preliminary results of this review, we inadvertently failed to remove the line item “Purchase of Traded Goods” from the “Value of Raw Materials Consumed” when deriving surrogate financial ratios based on the data contained in the financial report for the Indian producer Godrej & Boyce Manufacturing Co., Ltd. (Godrej). Because it is the Department’s practice to apply the surrogate financial ratios to the build-up of the respondent’s cost of manufacture (“COM”), the denominator of these ratios must include only the manufacturing costs incurred by Godrej (i.e., the Indian producer of comparable merchandise whose financial data the Department used to derive surrogate financial ratios in both Ironing Tables and in this administrative review) so that we are applying the financial ratios on an apples-to-apples basis. See section 773(c) of the Tariff Act of 1930, as amended (“the Act”) and 19 CFR 351.408(c)(4). As the “Purchase of Traded Goods” does not reflect Godrej’s manufacturing costs, we are excluding this value from the calculation of Godrej’s COM and have recalculated the surrogate financial ratios accordingly. For a further discussion of these changes, see also the December 13, 2004, memorandum to the file, titled Factors Valuation for the Final Results.
2. We inadvertently erred in calculating the surrogate financial ratios by failing to properly value selling, general, and administrative (“SG&A”) expenses. Specifically, we improperly valued SG&A expenses by inaccurately transcribing the data contained in the line items for “Bad Debts/Advances Written Off” and “Provision for Service Contract Expenses” as reflected in Godrej’s financial report. For a further discussion of these changes, see also the December 13, 2004, memorandum to the file, titled Factors Valuation for the Final Results.

Discussion of the Issues

Comment 1: *Use of the Actual Market Economy Prices Paid to Hong Kong Suppliers To Value Shichang's Cold-Rolled Steel Input*

In the Preliminary Results, we did not use Shichang's reported market economy prices which it paid for cold-rolled steel sheet purchased from its Taiwanese and Hong Kong suppliers because we determined that Shichang's purchases of cold-rolled steel were purchased at dumped prices.

In its case brief, Shichang points out that while some of the cold-rolled steel was manufactured in Taiwan and subject to the PRC antidumping order, it purchased a large portion of the cold-rolled steel directly from its Hong Kong suppliers. Shichang claims that it has provided evidence on the record of this review which indicates that the prices paid by its Hong Kong suppliers for the cold-rolled steel were not dumped or distorted.

Shichang further states that the Department considered whether to accept prices for inputs purchased through Hong Kong trading companies that originated in a country with broadly available non-industry-specific export subsidies, and therefore might be distorted, in prior cases, such as the Final Determination of Sales at Less than Fair Value: Certain Color Television Receivers from the People's Republic of China, 69 FR 20594 (April 16, 2004) ("CTRs from the PRC"). Shichang points out that in CTRs from the PRC, the Department ultimately decided to use the market economy prices from Hong Kong submitted by the respondent. Shichang also cites Final Results of First New Shipper Review and First Antidumping Duty Administrative Review: Certain Preserved Mushrooms From the People's Republic of China, 66 FR 31204 (June 11, 2001) and accompanying Issues and Decision Memorandum at Comment 7 ("Mushrooms from the PRC"), where the Department decided that 19 CFR 351.408(c)(1) does not require that the non-market economy respondent establish in which particular country the factor of production was produced but only that it was obtained from a market supplier. Shichang further claims that in Mushrooms from the PRC, the Department stated "the trading company in the third country is not subject to the investigation, and cannot therefore be presumed to have benefitted from any subsidies received by the producer or exporter of the merchandise." Based on the decisions made by the Department on this issue in the above-referenced cases, Shichang contends that the circumstances in those cases and in this review are similar. Therefore, Shichang urges the Department to reconsider its decision in the preliminary results and use in the final results the market economy prices for cold-rolled steel which Shichang paid to its Hong Kong supplier even if the Department rejects the market economy prices paid to Taiwan.

The petitioner did not comment on this issue.

Department's Position:

We disagree with Shichang and have not used in the final results its reported market economy prices which it paid for cold-rolled steel sheet purchased from its Taiwanese and Hong Kong suppliers.

As noted in the Preliminary Results, the Department has determined in recent cases that where the Department has reason to believe or suspect that sales of an input through a trading company in a market economy are distorted, the Department should exclude these prices. The Department has also clarified its practice on this matter by stating in the preliminary results of this review that it is not necessary to have specific evidence as to whether the prices Shichang paid for cold-rolled steel were dumped or distorted. Rather, the Department has stated that it only needs to have a reason to believe or suspect that the input is being dumped. See Final Determination for the 1998-99 Administrative Review of Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China, 66 FR 1953 (January 10, 2001), Issues and Decision Memorandum at Comment 1; and Notice of Final Determination of Sales at Less Than Fair Value: Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof, 69 FR 35296 (June 24, 2004), and accompanying Decision Memorandum at Comment 8. In this review, the facts indicate that prices for the input are distorted. The mere fact that the input in question is covered by the PRC antidumping duty order provides the Department with a sufficient basis to believe or suspect that cold-rolled steel produced in Taiwan may be dumped, therefore resulting in a distorted price for the input.

With respect to the purchases of cold-rolled steel through Hong Kong suppliers, these purchases have been clearly identified in Shichang's questionnaire response as Taiwanese in origin. Further, these inputs are subject to a PRC antidumping order on cold-rolled steel from Taiwan. Consequently, the Department has reason to believe that these sales are dumped. Moreover, there is no evidence on the record that the prices paid to the Hong Kong suppliers have eliminated the distortion in fair market value resulting from the dumped prices. Therefore, the Department has excluded all market-economy purchases of cold-rolled steel by Shichang of Taiwanese origin, whether purchased directly from Taiwan or through Hong Kong suppliers, and instead used Indian import data to value Shichang's cold-rolled steel factors of production. See Factor Valuation Memorandum at Attachment 4.

Furthermore, we note that our decision not to use Hong Kong supplier input prices in this case can be distinguished from CTRs from the PRC and Mushrooms from the PRC. First, neither of

these cases involved dumping of a purchased market-economy input. Second, in this case, record evidence clearly shows that Shichang's reported Hong Kong prices for cold-rolled steel, when compared to its reported Taiwanese prices for the same input, do not reflect the fair market value of the merchandise. Specifically, data contained in Shichang's Section A questionnaire response indicates that the price paid by Shichang to its Taiwanese supplier is similar to the prices paid to its Hong Kong suppliers for the same material input (See Shichang's February 9, 2004, Submission at Exhibit 6).

Comment 2: *Correcting Certain Errors in the Draft Instructions of Cash Deposit Rates And Liquidation to U.S. Customs and Border Protection*

Shichang states that the Department should correct the period of review ("POR") in its draft cash deposit and liquidation instructions ("draft instructions") (which it will issue to U.S. Customs and Border Protection) to reflect the POR of this administrative review. Specifically, Shichang notes that in the draft instructions, the Department inadvertently stated that the review period was December 31, 2001, through May 31, 2002, instead of the correct period of review, which is December 3, 2001, through May 31, 2003.

In addition, Shichang asserts that the Department should identify Maxchief Investments Ltd. ("Maxchief") collectively with Shichang in the draft instructions. Specifically, Shichang argues that Maxchief should be listed as the manufacturer/exporter of the subject merchandise, as the record of the review contains evidence that Shichang is wholly owned by Maxchief. Shichang further states that the Department examined this relationship at verification. Moreover, Shichang points out that its Section A questionnaire response stated that in the normal course of business, Shichang exports its manufactured products to overseas markets or sells the products through Maxchief to foreign customers.

The petitioner did not comment on this issue.

Department's Position:

We agree that the POR is incorrect and will revise our customs instructions accordingly. We also agree that Maxchief should be listed as the manufacturer/exporter of the subject merchandise. Specifically, at verification we verified the relationship between Shichang and Maxchief and the separate rates information submitted for the two companies in the Section A response. See the memorandum to the file, Verification of U.S. Sales and Factors of Production Information Submitted by Dongguan Shichang Metals Factory, Ltd. and Maxchief Investments, Ltd., dated April 23, 2004, at pages 4-6 and 10-14. Therefore, we have included Maxchief's name in our customs instructions accordingly.

Recommendation

Based on our analysis of the comments received, we recommend adopting all of the above positions. If these recommendations are accepted, we will publish the final results of this review and the final weighted-average dumping margin for the reviewed firm in the Federal Register.

Agree_____

Disagree_____

James Jochum
Assistant Secretary
for Import Administration

(Date)